

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

DAVID BURNS,

**Plaintiff**

V.

RUIZ, et al.,

## Defendants

Case No.: 3:20-cv-00032-MMD-CSD

Order

Re: ECF No. 36

Plaintiff has filed his proposed third amended complaint (TAC). (ECF No. 36.)

The proposed TAC lists Dr. Hanf in the caption, but Dr. Wulff is the only defendant

11 listed in the body of the TAC. Plaintiff alleges he saw Dr. Wulff in August of 2018, and Plaintiff  
12 complained of his arthritis pain. Dr. Wulff focused on Plaintiff's skin mole but ignored his  
13 complaints of pain. Plaintiff was not given medication until Dr. Hanf prescribed it in December  
14 2018.

15 The court finds that Plaintiff states a colorable Eighth Amendment claim of deliberate  
16 indifference to his serious medical needs against Dr. Wulff, and may proceed with the TAC in  
17 this regard.

## CONCLUSION

19 The TAC (ECF No. 36) is the operative complaint. Plaintiff may **PROCEED** with his  
20 Eighth Amendment deliberate indifference to serious medical needs claim in the TAC only  
21 against Dr. Wulff.

22 The Attorney General's Office shall file a notice on or before **June 2, 2022**, indicating  
23 whether it will accept service for Dr. Wulff. If service is accepted, Dr. Wulff shall have up to and

1 including **June 16, 2022**, to file an answer or otherwise respond to the TAC. At that point, the  
2 court will issue a new scheduling order.

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4 **IT IS SO ORDERED.**

5 Dated: May 19, 2022

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Craig S. Denney  
United States Magistrate Judge

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